

PR#9833

GUNTER, TEENA

10/29/2008

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA

3 STATE OF OKLAHOMA, et al.,
4

Plaintiff,

5 vs.

CASE NO. 05-CV-00329-GKF SAJ

6 TYSON FOODS, INC., et al.,

7 Defendants.

8
9 VIDEOTAPED DEPOSITION OF TEENA GUNTER
10 TAKEN ON BEHALF OF THE DEFENDANTS
11 ON OCTOBER 29, 2008, BEGINNING AT 9:00 A.M.
12 IN OKLAHOMA CITY, OKLAHOMA

11 APPEARANCES:

12 On behalf of the PLAINTIFF:

J. Trevor Hammons

13 Daniel Lennington, Attorneys at Law

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17 On behalf of THE OKLAHOMA DEPARTMENT OF AGRICULTURE,
18 FOOD & FORESTRY:

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22 (APPEARANCES CONTINUED ON PAGE 2)
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25 REPORTED BY: Laura L. Robertson, CSR, RPR

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1 (APPEARANCES CONTINUED)

2 On behalf of the DEFENDANT-PETERSON FARMS, INC.:
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10 On behalf of the DEFENDANT-GEORGE'S, INC. AND GEORGE'S
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(APPEARANCES CONTINUED)

On behalf of the DEFENDANT-TYSON FOODS, TYSON CHICKEN,
TYSON POULTRY AND COBB-VANTRESS, INC.:

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ALSO PRESENT: Stephen Carns, Videographer

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1 MR. VIDEOGRAPHER: This is the videotape
2 deposition of Teena Gunter, taken on behalf of the
3 defendant, in the matter of State of Oklahoma vs.
4 Tyson Foods, Case Number 05-CV-0329-GKF-SAJ.

5 It is being held at the Attorney General's
6 office at 313 Northeast 21st Street in Oklahoma City,
7 Oklahoma, on the 29th of December, 2008. On record at
8 9:05 a.m. Counsel, please state your appearance for
9 the record.

10 MR. LENNINGTON: Dan Lennington for the
11 State of Oklahoma.

12 MR. HAMMONS: Trevor Hammons for the State
13 of Oklahoma.

14 MR. HIXON: Philip Hixon for Peterson Farms.

15 MR. BURNS: Ryan Burns for the Tyson
16 defendants and Cobb-Vantress.

17 MS. TUCKER: K.C. Tucker for the George's
18 entities.

19 MR. VIDEOGRAPHER: On the phone.

20 MR. SANDERS: Bob Sanders for Cal-Maine
21 defendants.

22 MS. SOUTHERLAND: Leslie Southerland for
23 Cargill.

24 WHEREUPON,

25 TEENA GUNTER,

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1 after having been first duly sworn, deposes and says
2 in reply to the questions propounded as follows,
3 to-wit:

DIRECT EXAMINATION

BY MR. HIXON:

6 Q. Good morning, Ms. Gunter, we are back. Just
7 so we will have some continuity from our last session,
8 we had, or I had offered into the last sessions of the
9 deposition Exhibits 1, 2, 3, 4, 5, 6, 7, 8-A, 8-B,
10 8-C, 10, 11, 12, 17, 18, 19 and 20, which are all
11 contained in that folder, and I don't know that we
12 will need any of those, but just in case, they are
13 there.

14 A. Okay.

15 Q. For your benefit. And again for the record,
16 I think Exhibit 1 was the deposition notice, and it is
17 my understanding that you're here as representative of
18 the state of Oklahoma for the poultry topics that are
19 identified in the notice; is that correct?

20 A. Yes, sir.

21 Q. Okay. Can you tell me what the Oklahoma
22 Water Quality Monitoring Council is?

23 A. The Oklahoma Water Quality Monitoring
24 Council?

25 Q. Uh-huh.

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1 swine, we put swine in there, if it is cattle, we put
2 cattle in there, if it is a dog, we put dog in there.
3 Mice.

4 Q. Okay. I think that may answer my question.
5 I'm looking at the Exhibit 20 version and it doesn't
6 appear that type column is included in this.

7 A. Okay.

8 Q. Let's go on. What is our next integrator
9 complaint?

10 A. What was the last one we talked about?

11 Q. The odor complaint, C05122, the George's.

12 A. Okay. That would be all of the Adair.

13 Q. Before we leave Adair County, on this
14 complainant column on this page 5 of 5, there is a
15 familiar name on the C08149 and 150?

16 A. Uh-huh.

17 Q. Can you tell me what those complaints are?

18 A. They were complaints that were filed back in
19 April of this year, regarding several poultry
20 facilities. Mr. Lennington filed those complaints
21 from the Attorney General's office regarding those two
22 facilities as well as a couple of others.

23 We investigated them, as we do all
24 complaints and treated them as we have the rest of
25 these.

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1 Q. Okay. And this is Voo and Mullins?

2 A. Right, Voo Lauren, Voo Blia. B-L-I-A.

3 Q. Do you know what the other complaints were
4 that were made by Mr. Lennington?

5 A. I think they are listed in here. Three were
6 in Delaware County, I'm looking at page 8 of 8,
7 beginning at C-08-152, C-08-153, C-08-157, would be
8 three additional complaints that were filed in April
9 of '08 by Mr. Lennington.

10 Q. Okay. Have these complaints that were filed
11 by Mr. Lennington, have these files been produced to
12 the defendants?

13 A. They should have in the --

14 Q. The supplemental production that was just
15 made?

16 A. That's what I was just thinking is that
17 these would have been contained in that supplemental
18 production.

19 Q. Do you know whether there were any
20 violations found in any of these cases?

21 A. There were problems, I'm looking still at
22 8- -- 8 of '08, the C-08-152 indicates that we had to
23 make corrective actions were required for the Monty
24 Jones facility. The John C. Jones facility, the next
25 one on the list there received a letter of warning,

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1 and there was also a letter of warning for piling
2 poultry waste outside unprotected for Dale and Sharon
3 Guthrie.

4 The ones we started with here on page 5 of 5
5 for Adair, letter of warning was issued for the 08-149
6 against Voo Lauren Blia Voo. And a letter of warning
7 was also sent to Daniel Mullen, C-08-150, for letting
8 poultry litter stack outside. And that appears to be
9 all of them.

10 **Q.** Was there any determination in any runoff in
11 any of those complaints?

12 **A.** I said 8 of 8 didn't I? Yes, I did. Those
13 are stored in the individual producer files. Based on
14 the spreadsheet, the first one, Monty Jones does not
15 indicate what the problem was in here, except that
16 there needed to be follow-up and the requirements were
17 completed.

18 The letter of warning was sent because the
19 piles of waste are required to be protected, and what
20 that basically means is protected from runoff to make
21 sure that the pile doesn't runoff. That's the
22 terminology used by Mr. Parrish. Dome berm was built,
23 that's to take care of the runoff issue on that
24 facility.

25 Same with Dale and Sharon Guthrie. Litter

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1 warning for piling poultry waste outside, unprotected
2 from rainfall, et cetera, that would cause the --
3 cause runoff from that facility.

4 Q. When you're saying cause runoff, was there
5 an actual determination of runoff or are you just
6 saying that there is the potential for runoff on these
7 events?

8 A. I don't see that they actually identified
9 particular runoff, but that would depend on how long
10 it had been sitting out there and such as that. But I
11 don't see that they have identified specific runoff,
12 instead they just said fix it, make sure there is
13 no -- make sure there isn't any runoff from this pile.

14 Q. Okay. So there was no affirmative finding
15 of runoff from any of these incidents?

16 A. Not identified here.

17 Q. Do you know if there were any fines levied
18 in any of these complaints made by Mr. Lennington?

19 A. Those three, it doesn't appear to. They
20 were letter of warnings instead as issued. No, the
21 other two also received letter of warnings.

22 Q. Okay. Did ODAFF take any action against
23 the, any of the integrators for these complaints by,
24 made by Mr. Lennington?

25 A. No. These were identified as poultry

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1 operators, and we made the corrective actions through
2 the poultry grower.

3 Q. Okay. Let's go back to our integrator
4 questions. We were in Cherokee County, what
5 integrator violations or complaints do we have in
6 Cherokee County?

7 A. There is -- the second one down on page 1 of
8 3 of Cherokee County, there is a Cobb-Vantress
9 complaint, AIC-97-159, improper disposal of litter, no
10 violations. It was closed without any indications,
11 that they identified anything at that time.

12 MR. LENNINGTON: Let's change the tape real
13 quick.

14 (Short break)

15 Q. (BY MR. HIXON) Okay. We were at, left off
16 with the Cobb-Vantress, there is no violation there.
17 What is under the next Cherokee County complaint?

18 A. I have C-05-112, it says Simmons-Carl
19 Guthrie.

20 Q. Okay. Is that a Simmons --

21 A. I'm not positive that that is a Simmons
22 owned facility. It has got a license number, and I
23 don't know of any currently Simmons owned facilities
24 at that time. So there is -- Carl Guthrie could be
25 the grower for a Simmons facility. But again, it was

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1 were run.

2 Q. Okay.

3 A. And that date is identified on the bottom.

4 Q. And the complaints made against integrators,
5 there were no complaints finding runoff; is that
6 correct?

7 A. Other than the ones that were related to
8 improper storage or something to that effect, but
9 runoff was not the finding.

10 Q. There was no finding of runoff, there was
11 simply the potential for runoff in those cases?

12 A. Yes, sir.

13 Q. Was there any action taken against any of
14 the integrators on these complaints that we have
15 talked about under this 2-18.1?

16 A. Many of those were much older, and we didn't
17 have that statute until later on. Do you have the
18 exhibit with the --

19 Q. You should also have the exhibit.

20 A. The very first time that law was in effect
21 was April 6th of '04.

22 Q. Okay.

23 A. So if it was previous to that, we didn't
24 have this at our disposal.

25 Q. Okay. Let's add that one, the official one